

REMARKS

This response is intended as a complete response to the Final Office Action dated November 12, 2009. In view of the following discussion, the Applicant believes that all claims are in allowable form.

The Applicant thanks Examiner Le for her time and comments during a telephonic interview on December 7, 2009, with Applicant's representative, Alan Taboada. The following is a statement of the substance of the Interview:

- A) No exhibits or demonstrations were conducted.
- B) Claims 21 and 37 were discussed.
- C) The prior art of *Yoest*, cited below, was discussed.
- D) The Applicant argued for the patentability of the present claims without amendment over the cited art. Proposed amendments to the claims were discussed to more clearly recite aspects of the invention. No specific agreement was reached. The proposed amendments are substantially embodied in the present response.
- E) The principal arguments of the Applicant are embodied in the present response.
- F) No other pertinent matters were discussed.

CLAIM REJECTIONS**A. 35 USC §103 Claims 21-23, 25, 26 and 37-43**

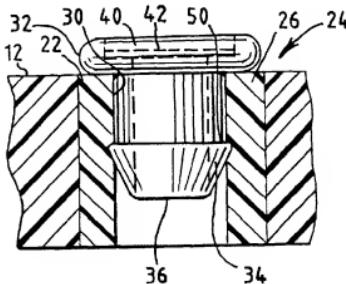
Claims 21-23, 25, 26, and 37-43 stand rejected under 35 USC. §103(a) as being unpatentable over United States Patent No. 5,970,157 issued October 19, 1999 to *Yoest* (hereinafter *Yoest*) in view of United States Patent No. 4,987,597 issued January 22, 1991 to *Haertl* (hereinafter *Haertl*). The Applicant respectfully disagrees for the reasons discussed below. However, to expedite prosecution, the Applicant has amended claims 21 and 37 to more clearly recite aspects of the present invention.

Independent claims 21 and 37 recites limitations not taught, suggested, or otherwise led to by any combination of the cited art. *Yoest* teaches a hearing aid

10 having a shell 12 that supports or encloses a microphone 14, amplification circuitry, and a receiver 16. A receiver tube 22 coupled to the receiver 16 penetrates the shell 12 of the hearing aid 10. (Yoest, col. 3, ll. 48 – col. 4, l. 6; Fig. 2.) The receiver tube 22 may be removably coupled to the receiver 16, but is shown coupled to the shell 12 of the hearing aid 10. (*Id.*, Fig. 5A.) The receiver tube 1028 of Yoest is similarly described and shown as being coupled to a shell 1012 of a hearing aid 1010. (*Id.*, Fig. 16 and accompanying text.) An ear wax barrier 24 comprising a barrier screen 42 is positioned in the receiver tube 22 at a distal most portion 26 thereof. (*Id.*, Fig. 3, 3A.)

The Examiner contends that Yoest allegedly teaches that the receiver tube (22, 1028) is removably connectable to a hearing aid (10, 1010), citing figures 4, 5, 5A, 6 and 16. (*Final Office Action dated 11/12/09*, p. 2, and Response to Argument section, p. 4.) However, as discussed above, although the receiver tube (22, 1028) is removably coupled to the receiver (16, 1018), the receiver tube (22, 1028) is shown coupled to the shell (12, 1012) of the hearing aid (10, 1010) and is not shown removably coupled to the hearing aid (10, 1010). For example, Figure 4 of Yoest, reproduced below, depicts the tube 22 coupled to the hearing aid shell 12 (similarly as depicted in other figures of Yoest):

FIG. 4



Accordingly, *Yoest* fails to teach, suggest, or otherwise yield a receiver tube removably connectable to a hearing aid, as recited in independent claims 21 and 37.

In addition, *Yoest* further fails to teach, suggest, or otherwise yield a receiver tube having a first end that is removably connectable to a hearing aid and a second end that is removably connectable to a receiver of the hearing aid, as also recited in claims 21 and 37, as amended. As discussed above, *Yoest* depicts a receiver tube (22, 1028) that is removably coupled to the receiver (16, 1018) at a first end. However, the second end of the receiver tube (22, 1028) is shown coupled to the shell (12, 1012) of the hearing aid (10, 1010).

In the Response to Argument section of the office action, the Examiner further asserts that the receiver tube, as claimed, could be construed as other components of *Yoest*, such as the barrier (24, 124, 224, 324) or the attenuator (924, 124). (*Final Office Action dated 11/12/09*, p. 4.) However, *Yoest* and the present application both relate to hearing aids and use similar terminology with respect to hearing aids, receivers, receiver tubes, and the like. As such, the interpretation by the Examiner that the receiver tube as recited in the claims corresponds to other components of *Yoest* besides the receiver tube is unreasonable and inconsistent with the present specification and, therefore, improper. Moreover, the Examiner cites no art nor presents any line of reasoning as to why the term "receiver tube" recited in the claims should be construed to mean something other than the component that is described in the present application and the cited art using identical terminology.

The Examiner admits that *Yoest* fails to teach an ear wax trap comprising a microporous membrane as recited in independent claims 21 and 27. (*Office Action dated 04/07/2009*, page 2.) Accordingly, the Examiner cites *Haertl* to allegedly teach the limitations of a microporous membrane as recited in the claims 21 and 37. However, even if the Examiner's contention was correct, the combination of *Yoest* and *Haertl* fails to disclose a receiver tube removably connectable to a hearing aid and a receiver of the hearing aid, as recited in

independent claim 21; or a hearing aid comprising a receiver, and a receiver tube removably coupled to the hearing aid and the receiver, as recited in independent claim 37.

Heartl discloses an apparatus for closing openings of a hearing aid, such as sound openings. (*Heartl*, Abstract.) The hearing aid includes a housing 1 which has a sound exit nozzle 2 (e.g., a receiver tube) at one end and is covered at the opposite end by an end cover 3. An earphone 4 (e.g., a receiver) has an output side connect to the sound exit nozzle 2. (*Id.*, col. 2, l. 58 – col. 3, ll. 10; Fig 1.) The apparatus includes caps 12 and 13 which are respectively disposed over a sound exit nozzle 2 and a cover 3. (*Id.*) Caps 12, 13 each have microporous PTFE membranes 14. (*Id.*, col. 3, ll. 11-14.) *Heartl* teaches the sound exit nozzle 2 (e.g., a receiver tube) is coupled to the output side of the earphone 4 (e.g., a receiver). However, *Heartl* fails to teach a receiver tube removably connectable to a hearing aid as recited in independent claim 21 and 37.

As such, the combination of *Heartl* and *Yoest* fails to yield a receiver tube removably connectable to a hearing aid and a receiver of the hearing aid, as recited in claim 21 (or a receiver tube having a first end that is removably connectable to a hearing aid and a second end that is removably connectable to a receiver of the hearing aid, as recited in claim 21 as amended); or a hearing aid comprising a receiver, and a receiver tube removably coupled to the hearing aid and the receiver, as recited in claim 37 (or a receiver tube having a first end that is removably coupled to the hearing aid and a second end that is removably coupled to the receiver, as recited in claim 37 as amended). As such, a *prima facie* case of obviousness has not been established as the combination of the cited art fails to yield the limitations recited in the claims.

Thus, claims 21-23, 25, 26, and 37-43 are patentable over *Yoest* in view of *Haertl*. Accordingly, the Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

ALLOWABLE SUBJECT MATTER

The Applicant thanks the Examiner for comments regarding the allowability of claim 46 if re-written in independent form. However, in view of the above discussion, the Applicant respectfully submits that all claims are in condition for allowance.

CONCLUSION

Thus, the Applicant submits that all claims now pending are in condition for allowance. Accordingly, both further consideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that any unresolved issues still exist, it is requested that the Examiner telephone Alan Taboada at (732) 935-7100 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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